

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ANDRE HINES,

Plaintiff,

VS.

COMMISSIONER OF SOCIAL SECURITY,:

Defendant.

CASE NO. 1:20-cv-1422

OPINION AND ORDER
[Resolving Doc. 1]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On June 29, 2020, Plaintiff Andre Hines filed a complaint challenging Defendant Commissioner of Social Security's decision to deny Hines Disability Insurance Benefits under the Social Security Act.¹ The Court referred the matter to Magistrate Judge Carmen E. Henderson.

On June 21, 2021, Magistrate Judge Henderson issued a Report and Recommendation (“R&R”) finding that the Court should reverse and remand the Commissioner’s decision.² On July 6, 2021, the Commissioner informed the Court that he would not file R&R objections.³

The Federal Magistrates Act requires a district court to review *de novo* only the objected-to portions of an R&R.⁴ Failure to timely object waives a party's right to contest the

¹ Doc. 1.

² Doc. 19.

³ Doc. 20.

⁴ 28 U.S.C. § 636(b)(1).

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R&R.⁵ Where a party does not object to the R&R, a district court may adopt the R&R without review.⁶

Here, the Commissioner has waived any right to dispute the R&R findings.⁷ Nonetheless, reviewing the administrative record, this Court agrees with Magistrate Judge Henderson's conclusion that the ALJ misapplied the law by failing to weigh the abundant medical evidence regarding Plaintiff Hines's crushed right foot and associated pain.⁸ The ALJ's omission requires a remand.⁹

Accordingly, given the Commissioner's decision not to object to the R&R and the merit of Plaintiff Hines's complaint, the Court **ADOPTS** Magistrate Judge Henderson's R&R, incorporates it as if fully restated herein, and **REVERSES** and **REMANDS** the Commissioner's decision.

IT IS SO ORDERED.

Dated: July 20, 2021

s/ James S. Gwin

JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

⁵ *Thomas v. Arn*, 474 U.S. 140, 154 (1985); *Gerth v. Warden, Allen Oakwood Corr. Inst.*, 938 F.3d 821, 827 (6th Cir. 2019).

⁶ *See Thomas*, 474 U.S. at 149–50.

⁷ Doc. 20.

⁸ Doc. 19 at 9–13.

⁹ *Reynolds v. Comm'r of Soc. Sec.*, 424 F. App'x 411, 414 (6th Cir. 2011) (“[A]n ALJ must include a discussion of findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record.”) (quotation omitted).